



CITY OF ATLANTA

2004 FINANCIAL DISCLOSURE REPORT

Ethics Office
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Board of Ethics

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2004 FINANCIAL DISCLOSURE REPORT: EXECUTIVE SUMMARY

The City of Atlanta has made significant progress this year in improving the financial disclosure program. The city has achieved an overall filing rate of 92% and, for the first time, obtained compliance with the filing requirement from all city elected officials and current employees who are required to file an annual disclosure statement. This accomplishment demonstrates that, with sufficient resources and political will, the city can obtain full financial reporting from its officials and employees.

Despite these achievements, the city still faces many challenges before it attains a meaningful disclosure program. The full value of financial disclosure cannot be realized until forms are reviewed for accuracy, and actual and potential conflicts of interests are investigated and eliminated. To fulfill this purpose, city officials and employees must meet the filing deadline; they need to fully disclose their sources of income and assets; and the public needs better access to the information disclosed. Since voluntary compliance with the law is not occurring, the City will need to commit additional resources to enforce timely and complete financial disclosure. The Ethics Officer makes the following recommendations to achieve effective enforcement of the law:

1. The Board of Ethics should continue its enforcement efforts until each current board member and neighborhood planning unit chair files a financial disclosure statement in 2004 as required by law.
2. The Board should post at its website a copy of this report and tables listing the officials and employees who filed a timely disclosure statement, those who filed a late statement, and those who have failed to file a statement.
3. The Board should recommend to the Mayor and City Council that they not appoint or reappoint to any board any individual who failed to fulfill his or her obligation to file a financial disclosure statement this year.
4. The Board should recommend to the Department of Planning and Community Development that it prohibit current NPU officers from running for election or reelection until they file a financial disclosure statement.
5. The Board in 2005 should require persons who file more than 15 days after the filing deadline to pay an automatic late filing fee of \$50.
6. The City of Atlanta should implement a web-based financial disclosure filing system for 2005.
7. The City should allocate additional resources in 2005 to enable a review of the forms for full and accurate disclosure and to resolve any conflicts of interests that are found.

INTRODUCTION

The City's Code of Ethics requires elected city officials, certain city employees, city board members, city-appointed members of other boards, and NPU officers to annually disclose their sources of income, assets, and transactions with the city. Disclosure enables the public to review the sources of assets and income of city officials and employees for actual and potential conflicts of interest between the individual's official duties and private interests.

The Ethics Officer must report annually to the Board of Ethics on all persons required to file, those who have complied with the filing requirements, those who have filed a late or incomplete statement, and those who have failed to file a financial disclosure statement. The Board of Ethics has the responsibility for enforcing the financial disclosure process and may impose an administrative sanction of \$50 per day on delinquent filers, with a maximum penalty of \$500 for the first offense.

COMPLIANCE RATES FOR FILING

The Code of Ethics requires individuals to file a financial disclosure statement every year they hold a city position and in the year after they leave the city's service. Former employees and officials are required to file because there are restrictions on their activities and dealings with the city and their former agency for one year following the end of their service.

Of the 1,155 individuals required to file a financial disclosure statement this year, more than nine out of every ten filed their statement. The city's elected officials and employees had a 97 percent filing rate; board members and neighborhood planning unit officers had an 80 percent filing rate, and the city's overall filing rate was 92 percent. By comparison, the overall filing rate in 2002 was 77 percent, ranging from 88 percent for city elected officials and employees to 51 percent for board members and NPU officers.

There were 95 individuals who did not file in 2004 as required by law. Thirty-two of the non-filing individuals are current members of city boards or the chairperson of their NPU. Of the 20 persons in the "employee" category who did not file a financial disclosure statement this year, all are former employees who left city employment during the past 21 months; of the remaining 75 non-filing individuals, at least 29 are former board members. There is no comparable information on the number of non-filing NPU officers who formerly held their position.

The charts below show the compliance rates by category of filers.

2004 Filing Rates

<u>Total number of individuals required to file</u>	1,155
Number of timely filers	751 (65%)
Number of late filers	309 (27%)
Number of non-filers	95 (8%)

<u>City elected officials and employees</u>	
Number of individuals required to file	780
Number of individuals filing	760
Percentage filing	97.4%

<u>Board members and NPU officers</u>	
Number of individuals required to file	375
Number of individuals filing	300
Percentage filing	80.0%

FINANCIAL DISCLOSURE PROGRAM

This year is the first one in which the Ethics Office has been involved in financial disclosure. In 2002, the City Council adopted new disclosure requirements based on the recommendations of the Mayor's Task Force on Ethics. The amendments increased the number of persons required to file, especially board members and NPU officers, and also expanded the information that individuals had to disclose. In 2003, the Board of Ethics appointed the first Ethics Officer. As a result of these changes, the city has engaged in a more concerted effort to enforce the financial disclosure requirements.

Content of forms. The Ethics Officer developed a new disclosure form for 2004 based on the code's requirements after a review of forms used in other jurisdictions. The City of Atlanta form requires the disclosure of sources of income, real estate holdings, and fiduciary positions. Contrary to a common misconception, it does not ask for any dollar amounts of income or the value of any asset. The Board of Ethics approved the form in December 2003.

Identifying persons required to file. The code identifies 23 categories of city officials and employees who are required to file the annual disclosure statements. The Municipal Clerk developed the list of board members by reviewing the official records of the City Council and by calling the city's contact person for each board. The Department of Human Resources developed the employee list by matching job titles, functions, classifications, and pay grades with the categories of employees listed in the code. The Chief Operating Officer provided the list of city employees to the Ethics Office on January 12.

Distribution of forms. Approximately 1,200 financial disclosure forms were mailed by first class mail on January 14, 15, and 16. They were sent to the homes of 35 elected officials, 700 employees, 400 board members, and 65 NPU officers. Forty forms were returned for insufficient addresses. The disclosure form was posted at the city's website, and a city-wide e-mail was sent to city employees in February with a link to the form. In addition, the Ethics Office sent out the form on request, by mail, e-mail, or fax, and distributed other copies at workshops and meetings. The Ethics Office asked city planners to help distribute the forms to current NPU officers for whom the city did not have a mailing address.

Department support. Besides dealing directly with the individual filers, the Ethics Office enlisted the assistance of the departments. In January, the Ethics Officer gave a list of employees required to file to department representatives on the Human Resources Policy Council. A week before the filing deadline, the Ethics Office wrote every department head or contact person, again providing the list of departmental employees who were expected to file. As a result, some departments identified additional individuals, such as fire inspectors, who should file and gave them copies of the form to complete.

Training and education. To assist people in filling out the forms, the Ethics Office announced and held four workshops. Only four persons attended these workshops. In addition, the Ethics Officer explained the form at the televised meeting of the Board of Ethics in January, a Human Resources Policy Council meeting, and training workshops conducted for the city's judges and one department's managers. Eight City Council members attended portions of the Committee on Council work session held on February 2 to discuss the disclosure form. The session was televised live and later rebroadcast on cable channel 26. A list of frequently asked questions about the form was posted at the Board of Ethics' website.¹ Questions and answers were added each week. In addition, the Ethics Office responded to more than 125 inquiries about the financial disclosure statements during the filing period.

Timely filing rates. The deadline for filing was February 17, 2004. A review of the disclosure statements filed through April showed widespread disregard of this deadline. More than 400 persons, including two city council members, had not filed their report. Sixty-two percent had filed their statement on time, and five percent had filed late. The percentage of timely filers was actually lower than the percentage who filed on time in 2002. The table below shows the filing record by category before any enforcement efforts began.

¹ See <http://www.atlantaga.gov/government/boards/boardofethics.aspx>.

2004 Filing Rates Before Enforcement Efforts Began

Category	Total	Timely	Late	Non-filers
Elected officials	35	33 (94%)	0	2
Employees	786	594 (76%)	43	149
Board members & NPU officers	437	157 (36%)	23	257
TOTAL	1,258	784 (62%)	66	408

Although employees had a higher overall filing rate than the volunteers who serve on city boards, compliance varied among the departments. The Department of Planning and Community Development had the poorest filing record with only 50 of its 98 employees, barely half, filing on time; the Police, Fire, and Human Resources Departments and Office of the Internal Auditor also had two-thirds or less of their employees who filed on time. By contrast, five departments, primarily smaller ones, had 90 percent of their employees to file on time; these departments were Corrections, Information Technology, Municipal Court, Parks, and Procurement.

The filing record among boards and the NPUs was abysmal, with only one of every three board members and NPU officers filing on time. The only city boards in which every member, both current and former, filed a timely disclosure statement were the Board of Ethics and Board of Astrology Examiners, which has one member. Even boards with adjudicatory authority, such as the License Review Board, Zoning Review Board, Tree Conservation Commission, and Taxicab and Vehicles for Hire Hearing Panel, had current members who had not filed their disclosure statement by May.

ENFORCEMENT EFFORTS

The Ethics Office began its enforcement efforts in May after the hiring of a second staff member. The goal was to achieve a higher number of persons complying with their duty to file. Because of the substantial number of violators, the office set priorities, based on categories of filers, in the following order:

1. Current elected officials
2. Current city employees
3. Current members of city boards with adjudicatory authority and members appointed by the city to other boards with comparable authority
4. Current NPU chairs & members of other city boards
5. Other current NPU officers
6. Former employees
7. Former board members and NPU officers

Based on these priorities, the office mailed a warning letter by first class mail to every elected official and city employee listed in the database who had

not filed, giving each individual ten days to file a completed form with the Municipal Clerk's office. By May 12, every elected official had complied with the disclosure law. In addition, the Ethics Office sent each department head a report on his or her department's compliance record, asking for help in getting employees to file. The Ethics Office and departments continued to call or send e-mails until every current employee had filed his or her statement. By July 12, all current employees had filed their disclosure statements.

A more comprehensive approach was required to deal with non-filing board members and NPU officers due to problems with the city's records on its boards, appointments, and neighborhood planning units. The Ethics Office initially sought to identify the individuals who had served in 2003 or 2004 by contacting the board's city staff person, the board chairperson, the Municipal Clerk, or the Mayor's office. As a result, persons whose service had ended in 2002 were deleted from the list of individuals required to file, and a handful of names were added to the list. Next, the enabling legislation for every board was reviewed to separate the boards into two categories: the city boards that were created by city or state law, which meant all of their members were required to file disclosure forms, and the other city or public boards, which meant only the members appointed by the Mayor or City Council were required to file. This review resulted in the deletion of four public boards from the database of required filers.

The list of board members and NPU officers was eventually reduced to 375 individuals who were required to file. The list of the non-filing board members was sent to the Mayor's office, the list of non-filing NPU officers was sent to the Department of Planning and Community Development, and the list of non-filers on a specific board was sent to the staff liaison, along with a request that they encourage board members to file.

A warning letter was mailed by first class mail to the board members or NPU officers remaining on the list, explaining the reason the individual was required to file a financial disclosure statement. Three board members resigned in response, rather than comply with the disclosure requirements.² The loss of these board members was offset by 15 new board members who voluntarily filed a disclosure statement this year immediately after their appointment to a city board.

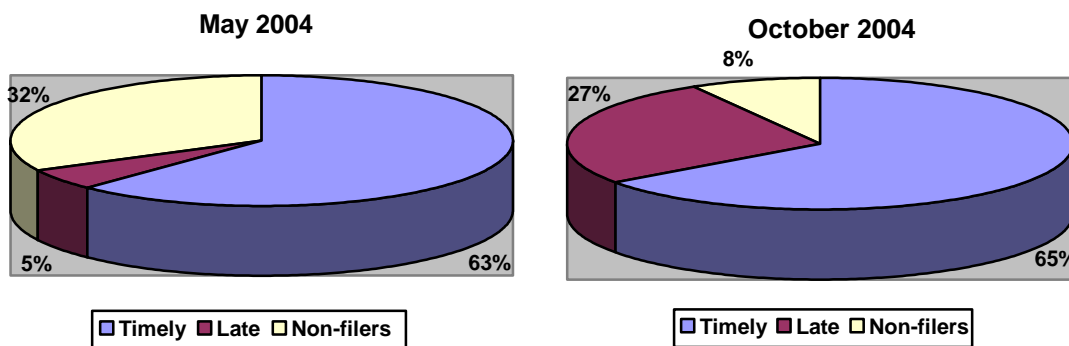
Despite the warning letters, many current board members continued to disregard the disclosure requirements. Therefore, a second warning letter was sent in July to 12 members of active city boards with adjudicatory authority and members appointed by the city to other boards with substantial decision-making responsibilities. These boards were the Atlanta Housing Authority, Atlanta-Fulton County Recreation Authority, Fulton-Atlanta Community Action Agency, License

² These resignations did not eliminate the legal obligation of the board members to file, but did place them in a lower priority of enforcement.

Review Board, Metropolitan Atlanta Rapid Transit Authority, and Taxicab & Vehicles for Hire Hearing Panel, Tree Conservation Commission, and three city pension boards. After 10 days, the Ethics Office followed up with telephone calls and e-mails to persons who still had not filed.

Three of the non-filing board members continued to ignore the disclosure law. Therefore, the Board of Ethics voted in September to bring enforcement proceedings, requiring them to appear before the board to show cause why they should not be fined the maximum allowed under law. A show cause letter was issued in October against Aaron Watson of the License Review Board and Atlanta Development Authority Board of Directors, Kelen Evans of the Atlanta Firefighters Pension Board, and Cynthia Mitchell of the Tree Conservation Commission. The hearing is set for November 18.

Comparison of Filing Rates Before and After Warning Letters³



Meanwhile, the Ethics Office is continuing its enforcement effort against other non-filing officials. The office is in the process of sending out second warning letters to the current twenty-eight board members and four NPU chairpersons who have not yet completed and filed their disclosure statement.

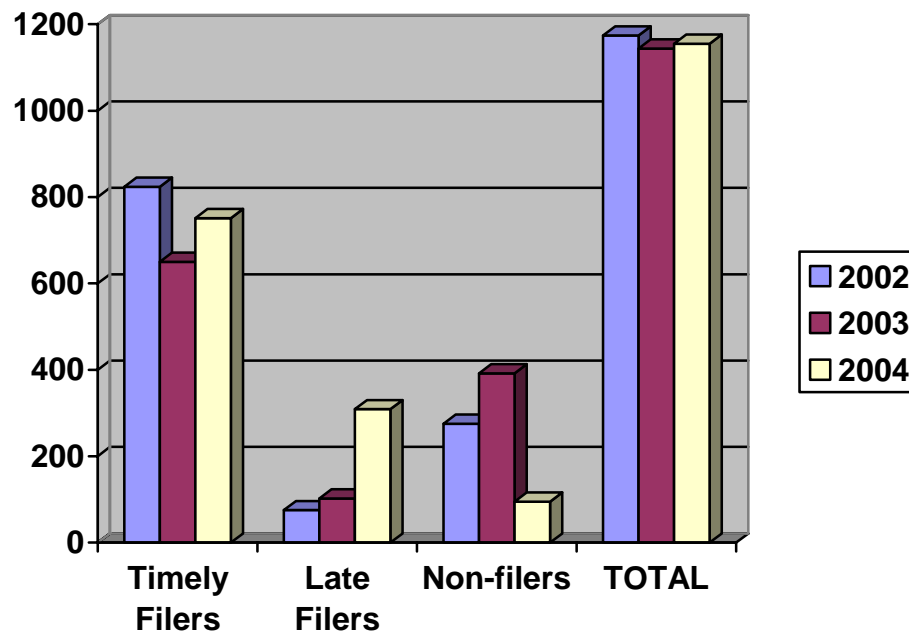
The Code of Ethics provides three possible penalties for violations of the law. The Board of Ethics has the authority to impose an administrative sanction of \$50 a day for late filing, up to a maximum penalty of \$500 for a first offense. It also can issue a public reprimand and recommend disciplinary action under the personnel code for employees.

³ The percentage of "timely filers" increased between May and October because approximately 100 persons, primarily non-filers, were deleted from the database after research showed that they were not required to file a disclosure statement in 2004, and 20 persons, primarily timely filers, were added after they were appointed this year and voluntarily filed a disclosure statement.

ANALYSIS

A review of this year's total filing rates with the rates from the past two years shows the value of these enforcement efforts. Comparing this year to 2002, the number of persons required to file is basically the same, and the number of timely filers is actually less this year, but the total number of filers has increased due to the number of late filers. Consequently, the number of non-filers has been reduced by nearly two-thirds, from 275 in 2002 to 95 in 2004. Both the number of timely filers and late filers is greater this year than in 2003, thus causing the number of non-filers to drop substantially.

Comparison of Filing Rates over the Last Three Years



The process of achieving this compliance record has been extremely time-consuming. As a result, the two-person staff in the Ethics Office has spent its efforts in getting individuals to file, leaving little time for analysis of the information disclosed.

Nevertheless, a cursory review of the forms with minimal independent research indicates that neither employees nor board members are fully disclosing their assets or sources of income. Part of this failure may be attributed to the form, which caused confusion; part of that confusion may be attributed to the ordinance. However, some of the blatant omissions are clearly intentional. For example, one well-known developer who serves as a board member did not list any employer, source of income, or fiduciary position, although he is listed in the state's public records as the chief executive officer of his limited liability

corporation. Under real property, he wrote that he owned 30 parcels, but did not identify any of them. In contrast, another developer with extensive real estate holdings attached to his disclosure form a page-long list of his real estate interests. Moreover, the intentional omission of required information was not limited to individuals with extensive real estate portfolios. A city building inspector, for instance, did not disclose property that he owned in Gwinnett County because he said the city did not have the right to ask about any property that he owned outside the city limits.

These anecdotal examples make clear that more education and more enforcement will be required to achieve full financial reporting, as required by law. The value of the disclosure program cannot be fully realized until the forms are reviewed for accuracy, and actual and potential conflicts of interest are investigated and resolved.

CONCLUSION

The City of Atlanta has made significant progress this year in improving the financial disclosure program. For the first time, the city has achieved compliance with the filing requirement from city elected officials and current city employees, all of whom filed an annual disclosure statement. This accomplishment demonstrates that the city can obtain full financial reporting from its officials and employees, given sufficient resources and political will.

Yet, the city still faces many challenges before it achieves a meaningful disclosure program. Filing the statement is only the initial step in the process. Too many employees, board members, and NPU officers continue to ignore the filing requirement. Too many of them file late, and too often the filers failed to make a full and complete disclosure of their financial interests. To fulfill the purpose of the financial disclosure program, more officials and employees must file on time; all filers need to fully disclose their assets and sources of income; and the public needs better access to the information disclosed.

To achieve these goals, which are essential for the full enforcement of the ethics code, the City of Atlanta must dedicate additional resources to the effort. The clear message from this year's experience is that a strong law and full-time ethics officer are not enough. Financial disclosure is only one part of the system of ethics envisioned in the city's standards of conduct; the Ethics Office is also charged with educating employees and officials about the code, advising them through informal advisory letters and the Board's formal advisory opinions, and enforcing the provisions against conflicts of interests. The city has not yet reached the point when its elected and appointed officials and employees accept their responsibility under the law, voluntarily comply with the annual filing requirement as a routine matter, and file a timely and complete financial disclosure statement without the necessity of warning letters, reminder telephone calls, show cause hearings, and \$500 fines. Until that time, the City of Atlanta

will need to commit additional personnel to attain compliance with the law's disclosure requirements.

The City of Atlanta has many problems that place demands on its limited financial resources. Committing more money, time, and staff to ethics may be seen as a luxury that the city cannot afford at this time. But, as the recent history of city government demonstrates, the failure to follow the city's ethical standards can prove costly in terms of money, reputation, and goodwill. In 2002, the Mayor and City Council made a choice to enact a strong ethics law. Now they have the choice to provide the resources for strong enforcement of that law.

RECOMMENDATIONS

Given the large number of individuals who did not file any statement, the Ethics Office has focused this year's enforcement efforts on getting individuals who currently serve the city to complete and file their disclosure statement. At the same time, the city needs to work on developing better lists of persons required to file in 2005, monitoring those who file for full and timely disclosure, and initiating a web-based filing system for better public access to the information. Towards these ends, the Ethics Officer makes the following specific recommendations:

1. The Board of Ethics should continue in its enforcement efforts until disclosure statements are filed by all current board members and NPU chairpersons who were required to file in 2004, but have not.
2. The Board should post at its website a copy of this report and its accompanying tables showing persons who complied with the law by filing a timely disclosure statement, those who filed a late statement, and those who failed to file any statement as of October 15, 2004.
3. The Board should send a copy of this report, including its list of non-filers, to the Mayor and City Council as appointing authorities and recommend that they not appoint or reappoint to any city board or other public board any individual who failed to fulfill his or her obligation as a board member to file a financial disclosure statement this year.
4. The Board should send a copy of this report, including its list of non-filers, to the Department of Planning and Community Development and recommend that it adopt a policy that prohibits current NPU officers from running for election or reelection to any NPU office if they have failed to fulfill their obligation as a NPU officer to file a financial disclosure statement this year.
5. The Board should adopt a policy that permits a short grace period for late filing, but requires persons who file a complete statement more than 15 days after the filing deadline to pay an automatic late filing fee of \$50.

6. The City of Atlanta should implement a web-based financial disclosure filing system for 2005. This application would enable online processing of disclosure forms, while enabling the general public to perform search and retrieve functions of the information disclosed. This site may also serve as a portal for other state and city disclosure forms.

7. The City should allocate additional resources in 2005 to guarantee that enforcement of the city financial disclosure law is swift, fair, and comprehensive. There needs to be sufficient staff support to review each statement for accuracy, investigate actual and potential conflicts of interest, and resolve any conflict found.

APPENDIX

A Guide to the Tables

1. Definitions.

Late filer -- any individual who filed after the February 17, 2004, filing deadline.

Non-filer -- any individual who had not filed a financial disclosure statement with the Office of the Municipal Clerk by October 15, 2004; also, any individual who filed a form that stated he or she did not serve in 2003 but no city record could confirm the statement and existing records showed service in 2003.

Reasonable cause -- medical leave of absence or travel outside the country during the filing period.

Timely filer -- any individual who filed by the February 17, 2004, deadline; any individual who voluntarily filed a disclosure statement following his or her appointment to a city board or appointment by the Mayor or City Council to a public board in 2004; any board member who was omitted from the original mailing list in January, but filed a disclosure statement within 20 days of being informed by the Ethics Office of the duty to file; and any candidate for city council who voluntarily filed a city statement.

2. Explanation of notes.

Returned for insufficient address -- the U.S. Postal Service returned the original form or warning letter of a non-filer to the Ethics Office due to a bad address. If an individual filed a statement, either on time or late, no note was made about a form or letter that was returned for an insufficient address.

Resigned under protest -- the individual wrote a note or letter stating that he was resigning from the city board in lieu of filing a disclosure statement.

Filed state disclosure form -- any elected official from another jurisdiction who filed a state financial disclosure form under an agreement this year with the Ethics Office due to a dispute over whether the officeholder was required to file under the City's Code of Ethics.

Special note on former members of the Atlanta Workforce Development Agency Board. Four persons returned a statement declaring that they ended their board service in 2002. When the Ethics Office attempted to verify this fact, the agency's executive director said that the Mayor asked board members to resign in April 2003. Because the agency had given its records to investigative agencies, the Ethics Office was unable to review the minutes of the board meetings to reconcile this discrepancy. However, the agency did provide a copy of the resignation letter of one non-filing board member, which is a form letter, dated April 15, 2003, and other contemporaneous agency records show that the terms of these board members ended in July 2003. After the Ethics Office asked the four non-filing board members to provide confirmation that they resigned prior to 2003, two members said they would file a disclosure statement, but their statements had not been received by October 15, 2004.

3. Categories of filers.

- a. A city elected official who also served on a city board was counted as an elected official.
- b. A city employee who also served on a city board or as an NPU officer was counted as a city employee if required to file as a city employee and counted as a board member and NPU officer if not required to file as a city employee.
- c. A city board member who served on more than one board or served as a member of the Atlanta Planning Advisory Board and as a NPU officer was counted only once.
- d. The candidate for city council was included with city elected officials and employees for reporting purposes.

4. Persons required to file.

The original database contained approximately 1,200 names. The Ethics Office eventually deleted more than 100 names from the database because the individuals had died, retired or left city employment prior to 2003, did not serve as a board member or neighborhood planning unit officer in 2003 or 2004, were not appointed by the Mayor or City Council to the board on which they served, or did not serve on a city board created by state or city law. In addition, the Ethics Office added approximately 75 names to the database. These individuals included at least 50 city employees whose departments had determined after the initial mailing that they were required to file, six board members who were inadvertently omitted from the original mailing, 14 individuals appointed to boards in 2004, and one candidate for the Atlanta City Council who voluntarily filed.

5. A caveat about the non-filer list.

There may be persons listed as non-filers who should not have been included in the original mailing list because they were not required to file. The Ethics Office has attempted to independently verify a person's duty to file. Ultimately, however, it is the individual's responsibility to file a statement or notify the Ethics Office, explaining the reason the individual does not believe the law requires him or her to file.